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May 7, 2008

E-FILE

The Honorable Sue L. Robinson
U.S. District Court for the
District of Delaware
844 N. King St.
Wilmington, DE 19801

RE: David A. Smiley v. UAW Local 1183
C.A. No. 07-005-SLR

Dear Judge Robinson:

On October 4, 2007, David A. Smiley filed a lawsuit against defendant DaimlerChrysler under Title VII of the Civil Rights Act of 1964. (Exhibit "A").

On December 13, 2007, the parties stipulated to extend the original case scheduling order. The extended case scheduling order allowed discovery in the case to be initiated so that it would be completed on or before April 15, 2008. It also allowed all summary judgment motions to be served and filed on or before May 16, 2008, with answering briefs to be filed on May 29, 2008, and reply briefs to be filed on or before June 5, 2008. (Exhibit "B").

On April 7, 2008, Mr. Smiley filed an "Amended" Complaint to include defendant UAW Local 1183. (Exhibit "C"). On April 25, 2008, I filed an Answer on behalf of the Local. (Exhibit "D").

Since defendant UAW Local 1183 has recently been brought in as a party, I am respectfully requesting that a status conference be scheduled to discuss matters relevant to the Local's involvement in the case. If the Court is amenable, I will make the necessary arrangements to initiate the conference call when a date and time are set by the Court.

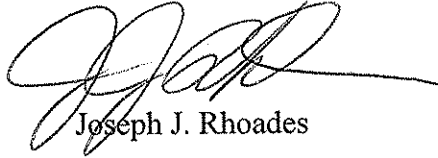
The Honorable Sue L. Robinson

May 7, 2008

Page 2

Thank you for your time and attention to this matter.

Respectfully yours,

A handwritten signature in black ink, appearing to read "J. Rhoades", with a long horizontal flourish extending to the right.

Joseph J. Rhoades

cc: David A. Smiley
Jennifer Gimler Brady, Esquire
Robert F. Henninger, Esquire

EXHIBIT “A”

(Del. Rev. 12/98)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

David A. Souley

(Name of Plaintiff or Plaintiffs)

v.

CIVIL ACTION No. 07-005

Daimler Chrysler

(Name of Defendant or Defendants)

**COMPLAINT UNDER TITLE VII
OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for employment discrimination. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at

1956 Seneca Road
(Street Address)
Wilmington New Castle DE 19805
(City) (County) (State) (Zip Code)
302 426-0395
(Area Code) (Phone Number)

3.

Defendant resides at, or its business is located at

550 South College Ave.
(Street Address)
Newark New Castle DE 19713-1383
(City) (County) (State) (Zip Code)

4.

The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's Daimler Chrysler place of business

located at 550 South College Avenue
(Street Address)
Newark New Castle DE 19713-1383
(City) (County) (State) (Zip Code)

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U.S. DISTRICT COURT
DISTRICT OF DELAWARE
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2008

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5. The alleged discriminatory acts occurred on 13, MAY, 2005.
(Day) (Month) (Year)

6. The alleged discriminatory practice ☐ is ☒ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,
Delaware Dept of Labor 4425 North Market Street
(Agency) (Street Address) (City)
New Castle DE 19802, regarding
(County) (State) (Zip Code)
defendant's alleged discriminatory conduct on 13, MAY, 2005.
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States
regarding defendant's alleged discriminatory conduct on: 15, Jul, 2006.
(Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter
which was received by plaintiff on: 4, Oct, 2006.
(Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☒ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☐ Failure to promote plaintiff.
- D. ☐ Other acts (please specify below)

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☒ Plaintiff's color
- C. ☒ Plaintiff's sex
- D. ☒ Plaintiff's religion
- E. ☒ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

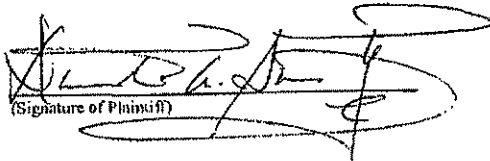
14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☒ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☒ That the Court appoint legal counsel.
- C. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Oct. 4, 2007


(Signature of Plaintiff)

(Signature of additional Plaintiff)

EXHIBIT “B”

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID A. SMILEY,

Plaintiff,

v.

DAIMLER CHRYSLER,

Defendant.

C.A. No. 1:07-005-SLR

JURY TRIAL DEMANDED

STIPULATION AND ORDER TO EXTEND CASE SCHEDULING ORDER

Plaintiff David Smiley ("Plaintiff") and Defendant Chrysler LLC, formerly known as DaimlerChrysler Corporation ("Chrysler"), hereby stipulate and agree, subject to the approval of the Court, as follows:

WHEREAS, the Case Scheduling Order (D.I. 16) was entered in this case on September 7, 2007;

WHEREAS, Plaintiff filed a motion to amend the complaint to add claims and parties on September 27, 2007 (D.I. 17), Chrysler filed an answering brief in opposition to such motion on October 15, 2007 (D.I. 19), and briefing on this issue closed on October 25, 2007;

WHEREAS, the joinder of additional parties and/or claims to Plaintiff's Complaint has yet to be determined; and

WHEREAS, the discovery period under the current Case Scheduling Order will expire on December 27, 2007;

THEREFORE, Plaintiff and Chrysler stipulate and agree, subject to the approval of the Court, to extend the Case Scheduling Order as follows:

1. **Discovery.** All discovery in this case shall be initiated so that it will be completed on or before April 15, 2008.

2. **Summary Judgment Motions.** All summary judgment motions and an opening brief and affidavits, if any, in support of the motion, shall be served and filed on or before May 15, 2008. Answering briefs and affidavits, if any, shall be filed on or before May 29, 2008. Reply briefs shall be filed on or before June 5, 2008.

3. Except as expressly stated in this Stipulation and Order, the schedule provided in the parties' initial Case Scheduling Order remains unchanged.

APPROVED AS TO FORM AND CONTENT:

DAVID A. SMILEY

By: 

David A. Smiley
26 Mackay Lane
Newark, DE 19713
Tel: (302) 266-8245
(302) 345-3395
Dasmyle2@aol.com

Pro Se Plaintiff

Dated: December 18, 2007

POTTER ANDERSON & CORROON LLP

By: 

Jennifer Gimler Brady (#2874)
Jennifer Wasson (#4933)
Hercules Plaza, 6th Floor
1313 N. Market Street
P.O. Box 951
Wilmington, DE 19899-0951
Tel: (302) 984-6000
Fax: (302) 658-1192
jbrady@potteranderson.com
jwasson@potteranderson.com

*Attorneys for Defendant Chrysler LLC
(formerly known as DaimlerChrysler
Corporation)*

Dated: December 13, 2007

STIPULATION APPROVED AND ORDER ENTERED BY THE COURT, this _____
day of _____, 2007.

Judge Sue L. Robinson

835888 / 31959

EXHIBIT “C”

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DAVID A. SMILEY,)
)
Plaintiff,)
) C.A. No. 1:07-005-SLR
v.)
)
UAW LOCAL 1183,) JURY TRIAL DEMANDED
)
Defendant,)
)

2008 APR -7 AM 10:18
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

**PLAINTIFF DAVID SMILEY'S COMPLAINT
AGAINST DEFENDANT UAW LOCAL 1183**

UAW Local 1183 through its representatives, its president, representative shop stewards and insurers created a breach of its duty of fair representation, when upon my termination on May 13, 2005, U.A.W. Local 1183, failed to enter a grievance on my behalf.

The UAW Local 1183 violated my Title VII rights and the Civil Rights Act of 1967, as an American of African decent, in addition to discriminating against me because of my color, when it intentionally refused to honor the negotiated Local Agreement and failed to adequately represent a union member.

Sub paragraph (c) of Labor organization practices, states that it

shall be an unlawful employment practice for a labor organization, (1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin; (2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or (3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

Title 42 U.S.C. 2000e-2, A (1),C(1)(2)(3).

The U.A.W. acted in a perfunctory manner in regards to its failure to properly conduct an investigation into the facts concerning my termination of employment from Daimler Chrysler Corporation and the ineffective representation of a union member.

As a result of the breach of fair representation by the U.A.W.

Union Local 1183, I have suffered an economic loss due its union officials failure to represent me fairly regarding my termination of employment at the

Daimler Chrysler Corporation.

Because of the breach of contract by the leadership of the U.A.W. Local Union 1183, its agents and insurers I have suffered emotional distress and harm to my reputation also as a direct result of the inaction of the Defendants Daimler Chrysler Corporation, Union Local 1183 and its agents and insurers for its violation of title VII of the Civil Rights Act of 1964, and 42 U.S.C. 2000e-2, A (1),C(1)(2)(3).

The plaintiff seeks both compensatory and punitive damages for the harm inflicted by the breach caused by UAW Local 1183, its agents and insurers and its indifference to its minority membership.

Additionally, I charge the UAW Local 1183, its agents and insurers with violation of my rights as an American of African Ancestry, applicable to Title VII of the 1964 Civil Rights Act., 2000e.

Further, I charge that the union UAW Local 1183, its agents and insurers with a failure to make a decision on whether or not to arbitrate.

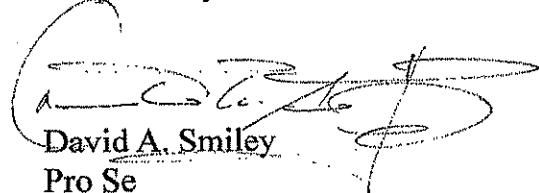
Finally, for a failure to notify the grievant of a decision not to arbitrate in time for the grievant to pursue other available remedies available. Poor quality of presentation and extreme negligence in investigation and extreme passivity in case preparation.

In closing, the perfunctory handling of an arbitration case, which effectively prevents factual proof of the grievants position.

Upon my termination of employment with the Daimler Chrysler Corporation, there was no evidence of disciplinary occurrences, absence abuse, work product, however, the only documented contact between UAW Local Union 1183 representatives was by letter dated February 13, 2006.

Therefore, it is for the above stated reasons the Plaintiff prays that the Court accepts the facts contained within this Complaint and find in favor of the Plaintiff.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'David A. Smiley', is written over a large, faint circular stamp or watermark.

David A. Smiley
Pro Se
814 B Village Circle
Newark, DE 19713
(302) 444-4872
(302) 345-3395
Dasmyle2@aol.com

Dated: April 7, 2008

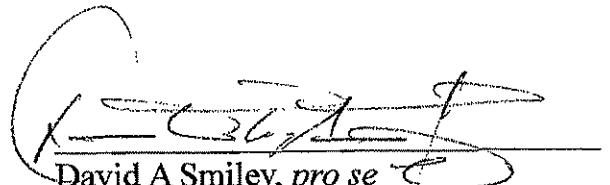
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DAVID A. SMILEY,)	
)	
Plaintiff,)	
)	C.A. No. 1:07-005-SLR
V.)	
)	
DIAMLER CHRYSLER,)	JURY TRIAL DEMANDED
)	
Defendant,)	
)	

CERTIFICATE OF SERVICE

I hereby certify this 7th day of April 2008, that two (2) true and correct Copies of the foregoing **PLAINTIFF DAVID A. SMILEY'S COMPLAINT AGAINST DEFENDANT U.A.W. LOCAL 1183**, was served by U.S. First Class Mail, postage prepaid, to the following address:

Larry Dixon
UAW Local 1183
698 Old Baltimore Pike
Newark, DE 19702
(302) 738-4500 Telephone
(302) 738-9564 Fax


David A Smiley, *pro se*
814 Village Circle B
Newark, DE 19713

(302) 444-4872 (Residence)

(302) 345-3395 (Cellular)

Dasmyle2@aol.com (Email)

EXHIBIT “D”

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DAVID A. SMILEY	:	
	:	
Plaintiff,	:	C.A.No.1:07-005-SLR
	:	
v.	:	
	:	JURY TRIAL DEMANDED
UAW LOCAL 1183	:	
	:	
Defendant	:	
	:	

**ANSWER OF DEFENDANT
UAW LOCAL 1183
TO PLAINTIFF'S COMPLAINT**

The United Automobile, Aerospace, Agricultural Implement Workers of America ("UAW") Local 1183 ("Local 1183" or the "Union"), through its undersigned counsel, hereby answers plaintiff's "Amended" Complaint¹ as follows. Plaintiff has not numbered the paragraphs in the Complaint. The Union's answers correspond to each of the allegations contained in the unnumbered paragraphs as though Plaintiff had actually numbered each paragraph.

1. Denied. Further, the Union filed a grievance on Plaintiff's behalf.
2. Denied. Further, the Union did attempt to represent Plaintiff.
3. No response is necessary. If a response is deemed necessary, the averments in this paragraph are denied.
4. Denied.

¹On September 27, 2007, Plaintiff moved to amend his Complaint to add the Union as a defendant. On April 8, 2008, Plaintiff "served" a copy of the Complaint, styled "Plaintiff David Smiley's Complaint against defendant UAW Local 1183" by leaving a copy of the Complaint, without summons, at the Union's office.

5. Denied. The Union properly investigated Plaintiff's termination from employment.

6. Denied. The Union has not breached its duty of fair representation to the Plaintiff.

7. Denied.

8. No response is necessary. If a response is deemed necessary, the averments in this paragraph are denied.

9. No response is necessary. If a response is necessary, the averments in this paragraph are denied.

10. No response is necessary. If a response is necessary, the averments in this paragraph are denied.

11. Denied.

12. Denied.

13. Denied.

14. No response is necessary. If a response is necessary, the averments in this paragraph are denied.

WHEREFORE, the Union respectfully requests that the complaint be dismissed in its entirety.

AFFIRMATIVE DEFENSES

1. The complaint fails to state claims upon which relief may be granted.
2. Plaintiff's claims are barred by the applicable statutes of limitations.

3. Plaintiff has failed to exhaust his administrative remedies by filing a charge of discrimination against the Union with the appropriate Agency and receiving a Right to Sue Notice prior to filing suit.

4. Plaintiff's state law claims are preempted by federal law.

5. Plaintiff failed to exhaust his administrative remedies with the Union.

WHEREFORE, Defendant UAW Local 1183 respectfully requests that the Complaint be dismissed with prejudice, with costs to be borne by Plaintiff.

Law Offices of Joseph J. Rhoades

By: /s/ Joseph J. Rhoades
JOSEPH J. RHOADES, ESQUIRE
Attorney I.D. No. 2064
Legal Arts Building - Suite 1200
1225 King Street
Wilmington, DE 19801
(302) 427-9500
Attorney for Defendant

Of Counsel:

Cleary & Josem LLP
William T. Josem, Esquire
Attorney I.D. No. 32183
Regina C. Hertzog, Esquire
Attorney I.D. No. 46917
Robert F. Henninger, Esquire
Attorney I.D. No. 69211
1650 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 735-9099

Dated: April 25, 2008